

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

ABDULLAH ABDULKARIM KOKOY,)
)
 Plaintiff,)
)
 v.)
)
DEPARTMENT OF HOMELAND SECURITY,) NO. 3:08-0327
U.S. CITIZENSHIP and IMMIGRATION) Judge Campbell/Bryant
SERVICES,)
)
 Defendant.)

TO: The Honorable Todd J. Campbell

REPORT AND RECOMMENDATION

Pending before the Court is the defendant's third motion to dismiss (Docket Entry No. 16), which urges dismissal of this case pursuant to Federal Rule of Civil Procedure 12(h)(3) on the grounds that plaintiff's application for naturalization has now been approved by the defendant agency, and that this matter should be dismissed, as moot, for lack of a justiciable case or controversy.

Plaintiff has not responded to this motion. On September 29, 2008, the undersigned Magistrate Judge entered an order to show cause requiring the plaintiff to show cause, on or before October 15, 2008, why defendants' motion to dismiss should not be granted and the complaint dismissed. In that show cause order, plaintiff was expressly admonished that his failure to respond may cause the undersigned Magistrate Judge to recommend that this case be dismissed. Despite this order, plaintiff has not responded either

to the motion or to the order to show cause within the time required.

From the plaintiff's failure to respond, and from the record as a whole, the undersigned Magistrate Judge finds that there no longer is a case or controversy between these parties, and that the defendant's motion to dismiss, therefore, should be **GRANTED**.

RECOMMENDATION

For the reasons stated above, the undersigned Magistrate Judge **RECOMMENDS** that defendant's third motion to dismiss should be **GRANTED**, and that the complaint should be **DISMISSED** with prejudice. If the Court accepts this report and recommendation, the other pending motions in this case should be **DENIED** as moot.

Under Rule 72(b) of the Federal Rules of Civil Procedure, any party has ten (10) days from service of this Report and Recommendation in which to file any written objections to this Recommendation, with the District Court. Any party opposing said objections shall have ten (10) days from receipt of any objections filed in this Report in which to file any responses to said objections. Failure to file specific objections within ten (10) days of receipt of this Report and Recommendation can constitute a waiver of further appeal of this Recommendation. Thomas v. Arn, 474 U.S. 140 (1985), reh'g denied, 474 U.S. 1111 (1986).

ENTERED this 3rd day of November 2008.

s/ John S. Bryant
JOHN S. BRYANT
United States Magistrate Judge